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Dear Gentlepersons:

On June 23, 2005 I sent FAA a detailed supplemental FOIA request, asking for documents that had been requested in earlier FOIA requests on November 19, 2003 by the Suburban O'Hare Commission and on February 26, 2004 by St. John's United Church of Christ, Helen Runge, Shirley Steele, the Rest Haven Cemetery Association, Robert Placek, Leroy Heinrich, and Roxanne Mitchell.

The documents we requested in our FOIA request are highly relevant to the claims made by FAA in its Draft and Final Environmental Impact Statements and in various related claims made by FAA—including but limited to claims made by FAA to the DOT Inspector General relating to both Phase One and the full build OMP-Master Plan.

Unfortunately, FAA has not yet made the requested documents available and that failure has severely hampered the ability of my clients to prepare responsive and intelligible comments on the Final EIS and related FAA decisions concerning Phase One and the full build OMP-Master Plan.

FAA officials

August 5, 2005

Page 2

I am asking FAA to immediately make the requested documents available. In an attempt to expedite delivery of these documents and our utilization of these documents in preparation of our response, I am highlighting various sub-categories of documents as I read through portions of the FEIS. I will send FAA individualized requests for these subcategories as I find them in the review of the FEIS.

I do not consider these new FOIA requests but believe these sub-categories are clearly encompassed within earlier FOIA requests. My individual identification of these sub-categories is simply to identify significant sub-categories of relevant documents and highlight the fact that these documents have not been produced to date. Moreover, FAA's continued failure to produce these documents in a timely manner shall serve as one of the bases of my clients' challenge to any FAA decision that is based in part on any claims made by FAA to which the missing documents are relevant.

The initial sub-categories of documents (in addition to the detailed categorization I provided in earlier FOIA correspondence) are:

1. All documents relating to the preparation of the 2002, 2003, and 2004 TAFs for O'Hare. The FAA makes the following statement (emphasis added) at page U.4-540 of the FEIS:

"FAA disagrees with the comment that the decrease in activity from the 2003 TAF to the 2004 TAF is unjustified. FAA conducts a comprehensive review of recent airline activity and future outlook for each annual TAF. This review is coordinated with a review of national aviation trends used in developing the forecast of aviation activity for the nation as a whole. In preparing the 2004 TAF, FAA determined that the long-term outlook for ORD was different from that reported in the 2003 TAF, and this is reflected in the results of the 2004 TAF. The FAA finds the commenter data for a few recent historical years unpersuasive on this issue. The assumptions regarding the future growth at ORD are based on the judgments of the FAA's forecast experts.

FAA surely did not pull the 2004 TAF out of thin air. The assumptions and data on which the FAA based the 2004 TAF and, *inter alia*, the reasons for the dramatic reduction in forecast enplanements between the 2003 and 2004 TAF, must have been memorialized in appropriate documentation. As the United States Court of Appeals for the District of Columbia Circuit emphasized in *Village of Bensenville v. Federal Aviation Administration*, 376 F. 3d 1114 (D.C. Circuit 2004), the FAA cannot rely on bald, unsupported claims of "expertise". FAA's claims of expert judgments must be supported by data and logic in the record. The FAA claims at p. U.4-538 that the 2004 TAF "validates" the FAA's continued use of the 2002 TAF. However, absent disclosure and production of the underlying documentation relating to the differences between the 2003 and 2004 TAF, there is a legitimate suspicion

FAA officials  
August 5, 2005  
Page 3

that the 2004 TAF was deliberately reduced to fit FAA's pre-determined support for approval of the OMP proposal.

2. All documents used and referenced in preparation of the Final EIS. FAA has previously stated that it has provided all reference documents used in preparation of the draft EIS. To the extent that additional documents were used in preparation of the Final EIS, or to the extent that documents relating to either the Draft EIS or Final EIS have not been previously produced, please produce those documents.
3. All documents relating to communications between the FAA and the DOT Inspector General relating to the OMP.
4. All documents relating to modeling performed by MITRE relating to the OMP. The Final EIS makes reference to modeling studies performed by MITRE relating to OMP but to my knowledge — despite our prior requests— no documents relating to such MITRE studies have been produced.

Again, these itemized sub-categories are already included within our long standing and still unsatisfied FOIA requests to the FAA. Please produce these documents immediately so that we can use these documents in preparing our responses to the FEIS. Again, by itemizing these sub-categories, we are not waiving our overall concern and objections that FAA is withholding thousands of relevant documents from our inspection — documents which are relevant to the FAA decisions at issue as to Phase One and the OMP. Please produce the documents identified in our June 23, 2005 supplemental FOIA request as well.

Sincerely yours,



Joseph Karaganis

cc: Mr. Robert Cohn